

Message Text

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AMEMBASSY COPENHAGEN
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C O N F I D E N T I A L MADRID 0035

E.O. 11652: GDS
TAGS: PINS, SP
SUBJECT: SPECIAL PUBLIC ORDER COURT ELIMINATED; TERRORIST CRIMES
PASS TO ORDINARY JURISDICTION

1. THE CABINET DECEMBER 30 APPROVED A JUSTICE MINISTRY
PROPOSAL ELIMINATING THE SPECIAL PUBLIC ORDER COURT SET UP
IN DECEMBER 1963 TO DEAL ON A CENTRALIZED BASIS WITH CRIMES
AFFECTING THE NATIONAL SECURITY. THE SPECIAL COURT, IN
THEORY INDEPENDENT AND WHOSE DECISIONS COULD BE APPEALED
ONLY TO THE SUPREME COURT, SOON BECAME A MATTER OF CON-
TROVERSY, AND ITS ELIMINATION HAD LONG BEEN CALLED FOR BY
MODERATE OPPONENTS OF FRANCO AND BY LAWYERS' GROUPS. A
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SIMILARLY SEPARATE JURISDICTION FOR MONETARY CRIMES WAS
ALSO ELIMINATED, AND ORDINARY COURTS MAY NOW HEAR CASES
WHICH WOULD PREVIOUSLY HAVE GONE ONLY TO THE SPECIAL
COURTS.

2. CREATED AT THE SAME TIME WAS A NATIONAL JUDICIAL DISTRICT
TO HANDLE CRIMES (PREVIOUSLY FALLING WITHIN THE JURISDICTION OF THE

ELIMINATED COURTS) WHICH "BECAUSE OF THEIR SPECIAL CHARACTERISTICS HERETO FORE REQUIRED THE NAMING OF A SPECIAL JUDGE WITH JURISDICTION OVER THE WHOLE NATIONAL TERRITORY." THE LISTED CRIMES INCLUDE MONETARY CRIMES, REAL ESTATE SPECULATION, AND DRUG TRAFFICKING, AS WELL AS "PUBLIC SCANDAL" WHEN CAUSED BY GROUPS ORGANIZED AT BEYOND THE PROVINCIAL LEVEL. EXCEPT FOR ITS NATIONAL REACH, JUSTICE MINISTER LAVILLA SAID, THE NEW COURT IS THE SAME AS ANY ORDINARY, "TERRITORIAL," COURT.

3. THE JURISDICTION OF MILITARY COURTS OVER TERRORIST CRIMES WAS ALSO ELIMINATED, AND SUCH COURTS ARE HENCEFORTH TO HAVE JURISDICTION ONLY OVER CASES OF CRIMES COMMITTED ON OR AGAINST A MILITARY INSTALLATION, OR INVOLVING MILITARY PERSONNEL. THIS FURTHER CUT-BACK OF MILITARY INVOLVEMENT IN TERRORIST TRIALS FOLLOWS ON THE REVISION IN FEBRUARY 1976 (76 MADRID 1080) OF THE CONTROVERSIAL ANTI-TERRORISM DECREE-LAW OF AUGUST 1975 (75 MADRID 6038), AND IS IN LINE WITH HOPES EXPRESSED FROM EARLY ON TO EMBOFFS BY POLITICIANS OF VARIOUS PERSUASIONS, INCLUDING ADOLFO SUAREZ, FOR A SHIFT OF TERRORIST TRIALS INTO CIVILIAN HANDS (75 MADRID 7102). AS FOR MILITARY FEELING ON THE MATTER, THE CONSENSUS RIGHT ALONG HAS BEEN TO AVOID TAINTING THE MILITARY'S IMAGE BY MIXING IN THE MAINTENANCE OF PUBLIC ORDER. ALTHOUGH THOSE ON THE FAR RIGHT MAY ATTRIBUTE THIS MEASURE TO GOS "SOFTNESS."

4. THESE LATEST CHANGES HAVE BEEN BROADLY HAILED AS CONSTITUTING AN IMPORTANT STEP IN THE DIRECTION OF "JURISDICTIONAL UNITY," A EUPHEMISM FOR MAKING THE JUDICIAL BRANCH MORE INDEPENDENT. IN FACT, THIS FOR MANY WAS TANTAMOUNT TO THE ELIMINATION OF THE PUBLICORDER COURT, SEEN AS THE SUCCESSOR OF THE "SPECIAL COURT CONFIDENTIAL

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FOR THE REPRESSION OF MASONRY AND COMMUNISM" CREATED DURING THE CIVIL WAR, AS AS BASICALLY RESPONSIVE TO EXECUTIVE DIRECTION. AMONG THOSE PRAISING THE CHANGES WAS CHRISTIAN DEMOCRATIC LEADER JOAQUIN RUIZ-GIMENEZ, WHO HAS BEEN ONE OF PCE SEC GEN SANTIAGO CARRILLO'S LAWYERS AND WHO ALSO PRAISED THE "GESTURE OF NOBLE INDEPENDENCE AND SENSE OF EQUITY" SHOWN BY THE PUBLIC ORDER JUDGE IN RELEASING CARRILLO AND THE OTHER PCE LEADERS. STABLER

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